

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

CHRISTOPHER BASS,

Plaintiff,

v.

SEAN DAVID MORTON; DARYL WEBER;  
MELISSA MORTON; 27 INVESTMENTS  
LLC; MAGIC EIGHT BALL  
DISTRIBUTING, INC.; VAJRA  
PRODUCTIONS LLC; DELPHI  
ASSOCIATES INVESTMENT GROUP,

Defendants.

NO. CV-08-253-EFS

**ORDER GRANTING PLAINTIFF'S  
REQUESTS FOR DAMAGES, FEES,  
AND COSTS; DENYING THE  
MORTON DEFENDANTS' MOTIONS;  
ENTERING JUDGMENT; AND  
CLOSING FILE**

A telephonic hearing was held in the above-captioned matter on December 4, 2009, to address Plaintiff Christopher Bass' damages request. A week before the hearing and the day of the hearing Defendants Sean and Melissa Morton ("the Morton Defendants) filed several documents. The Court addressed these documents at the hearing as well, which was attended by Plaintiff Christopher Bass, who was represented by John Feters and Richard Gerace, and the Morton Defendants. After reviewing the submitted material and hearing from counsel and the Morton Defendants, the Court was fully informed. For the reasons articulated on

1 the record and supplemented herein, the Court denies the Morton  
2 Defendants' requests and enters judgment in Plaintiff's favor.

3 **A. The Morton Defendants' Requests**

4 On November 24, 2009, the Morton Defendants filed a Petition for  
5 Judicial Review Decision and Reconsideration (Ct. Rec. [104](#)), a  
6 Dispositive Motion (Ct. Rec. [103](#)), and accompanying declarations (Ct.  
7 Recs. [105](#) & [106](#)). The Morton Defendants filed additional documents on  
8 December 4, 2009: 1) Final Notice of Default, Demand for Payment; Notice  
9 of Intent to Lien; Breach of Contract (Ct. Rec. [\\_\\_](#)); 2) Motion for Stay  
10 of Proceedings (Ct. Rec. [\\_\\_](#)); 3) For Judicial Review of all Decisions,  
11 Rulings and Procedure of all Proceedings From May 4, 2009 (Ct. Rec. [\\_\\_](#));  
12 and 4) a proposed Order (Ct. Rec. [\\_\\_](#)). In summary, the Morton Defendants  
13 contend that subject matter jurisdiction and personal jurisdiction are  
14 lacking and that this Court is the improper venue.

15 The Court abides by its jurisdiction and venue rulings in its  
16 November 3, 2009 Order. (Ct. Rec. [99](#).) Furthermore, the Court notes  
17 that the Morton Defendants sought affirmative relief from this Court when  
18 they filed their May 20, 2009 counterclaim (Ct. Rec. [24](#)); thereby  
19 submitting themselves to this Court's personal jurisdiction. In  
20 addition, at the time the Complaint was filed Plaintiff Bass resided in  
21 Liberty Lake, a town in the Eastern District of Washington.

22 Further, the Morton Defendants argue the parties settled this  
23 matter. The Morton Defendants highlight that on July 16, 2009, they  
24 filed a copy of a "settlement agreement" purportedly signed by Daryl  
25 Weber on July 15, 2009. The Court will not assess the viability of this  
26

1 "settlement agreement" or Mr. Weber's signature because default had been  
2 entered against Mr. Weber prior thereto on June 16, 2009. (Ct. Rec. [30](#).)

3 Lastly, because of the Morton Defendants' failure to appear for  
4 deposition and respond to discovery, Plaintiff did not have the  
5 opportunity to question, under oath, the Morton Defendants. The Court  
6 abides by its decision to enter default against the Morton Defendants and  
7 dismiss their counterclaim as a sanction for failure to engage in  
8 discovery and abide by Court orders. Accordingly, the Morton Defendants'  
9 recent requests for relief are denied.

10 **B. Plaintiff's Damages Request**

11 In its November 3, 2009 Order, the Court found that Plaintiff  
12 established that the Morton and corporate Defendants committed federal  
13 securities fraud and, therefore, the Court entered default against these  
14 Defendants.<sup>1</sup> This December 4, 2009 hearing was set to allow Defendants  
15 to contest Plaintiff's damages request, see Fed. R. Civ. P. 55(b)(2); see  
16 also *Fair Housing of Marin v. Combs*, 285 F.3d 899 (9th Cir. 2002);  
17 *Wanderer v. Johnston*, 910 F.2d 652, 657 (9th Cir. 1990). Defendants did  
18 not challenge Plaintiff's damages request.

19 1. Damages

20 The Court accepts Plaintiff's unchallenged declaration that he  
21 provided Defendants \$217,000.00 to invest: \$50,000 on August 8, 2006;  
22 \$67,000 on October 5, 2006; and \$100,000 on October 31, 2006. (Ct. Rec.  
23  
24

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25 <sup>1</sup> Again, default had previously been entered against Mr. Weber on  
26 June 16, 2009. (Ct. Rec. [30](#).)

84.) Accordingly, judgment is entered against all Defendants, jointly and severally, for this amount, including 12% prejudgment interest.

## 2. Attorney Fees

Three attorneys worked on Plaintiff's file: Richard Gerace, John Feters, and Dana Ferestien. Upon review of the submitted declarations, the Court finds the requested hours and charged fees reasonable, except the hours charged for preparing the Complaint, which the Court reduces by 12 hours. The following chart summarizes the fees awarded:

Attorney	Hours	Hourly Fee	Total
Richard Gerace	General: 88	\$250.00	\$22,000.00
	Discovery Sanction: 31	\$250.00	\$7,750.00
John Feters	General: 62.6	\$210.00	\$13,146.00
	Discovery Sanction: 43.4	\$210.00	\$9,114.00
Dana Ferestien	General: 18.2	\$315.00	\$5,733.00
	Discovery Sanction: 1.2	\$315.00	\$378.00
		<b>TOTAL</b>	<b>\$58,121.00</b>
		<b>General</b>	\$40,879.00
		<b>Disc. Sanc.</b>	\$17,242.00

## 3. Costs

The Court finds the costs sought by Plaintiff reasonable and awards as follows:

General Litigation Costs	Williams Kastner	\$1,245.39
Discovery Sanction Costs	William Kastner	\$707.31
	Richard Gerace	\$3,194.27
	<b>TOTAL</b>	<b>\$5,146.97</b>
	<b>General</b>	\$1,245.39
	<b>Discovery Sanction</b>	\$3,901.58

1 **C. Conclusion**

2 For the above-given reasons, **IT IS HEREBY ORDERED:**

3 1. The Morton Defendants' Petition for Judicial Review Decision  
4 and Reconsideration (**Ct. Rec. 104**); Dispositive Motion (**Ct. Rec. 103**);  
5 Final Notice of Default, Demand for Payment; Notice of Intent to Lien;  
6 Breach of Contract (**Ct. Rec.**), and Motion for Stay of Proceedings (**Ct.  
7 Rec.**) are **DENIED**.

8 2. Judgment shall be entered in Plaintiff's favor as follows:

9 a) Judgment against all Defendants (Daryl Weber; Sean Morton;  
10 Melissa Morton; 27 Investments, LLC; Magic Eight Ball  
11 Distribution, Inc.; Vajra Productions, LLC; and Delphi  
12 Associates Investment Group), jointly and severally, as  
13 follows:

- 14 •Principle judgment: \$217,000.00
- 15 •12% prejudgment interest on the following:
  - 16 ▶\$50,000 from 8/1/2006
  - 17 ▶\$67,000 from 10/5/2006
  - 18 ▶\$100,000 from 10/31/2006
- 19 •\$40,879.00 in attorney fees
- 20 •\$1,245.39 in costs

21 b) Additional judgment against Sean and Melissa Morton,  
22 jointly and severally, as follows:

- 23 •\$17,242.00 in attorney fees
- 24 •\$3,901.58 in costs

25 3. This file shall be **CLOSED**.

s/Edward F. Shea  
EDWARD F. SHEA  
United States District Judge

ORDER  $\sim 6$